

REMARKS

Applicant is respectfully requesting NON-ENTRY of the un-entered amendment previously filed on March 17, 2005.

This amendment is being filed concurrently with the filing of a Request for Continued Examination (RCE) application in order to amend claims 11, 37 and 41. Claims 11, 37 and 41 all clearly require the virus particle to be disrupted with the virus antigen exposed or released and the antibodies against the virus antigen inactivated, if present in the sample.

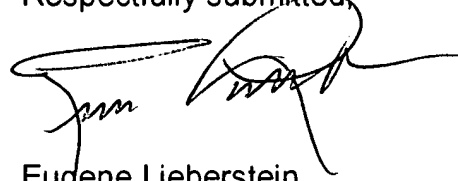
Applicant wishes the Examiner to elaborate on the explanation of the rejection of the claims under 35 USC 112 and not to simply repeat the rejection. The claims consist of two steps, not three, and the Examiner has ignored the amended recitation in step (1) which requires the virus particle to be disrupted, etc. as indicated above. In step (2), the treated sample is added to the reaction buffer and then the virus antigen is detected by immunoassay.

The argument of lack of enablement is not clear in that using the claimed method, applicant has been able to detect an antigen of HCV and HBV with a high degree of sensitivity. This, of itself, is proof of enablement of the claimed method. Instead, the Examiner is confusing the teaching of why this occurs with the legal requirement of enablement. A patent specification does not have to teach why detection is enabled. Upon a more detailed explanation of the position of the Examiner, applicant will respond with a Declaration under 35 USC 132 to substantiate why enablement does indeed exist.

Applicant respectfully submits that no new matter is being added by way of this amendment.

Reconsideration and allowance of Claims 4, 11, 34, 37-38 and 41 is respectfully solicited.

Respectfully submitted,



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MAILING CERTIFICATE

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 13, 2005.

Signed: 

Dated: May 13, 2005